

REMARKS

The Office Action dated February 12, 2004 has been received and carefully noted. The following remarks are submitted as a full and complete response thereto. Claim 1-40 are pending in the above-cited application and have been examined. Claims 1-40 are again submitted for consideration.

Claims 1-20 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The rejection alleged that claim 1 was indefinite since, in the recitation of "status information," it is not clear that the status is that of the server, client or network. Applicants respectfully traverse the above rejection.

The instant specification discusses the status information sent at page 9, line 14 to page 10, lines 15. The status information may be information about the network or hub or server itself. Applicants respectfully assert that the recitation of "status information" is not indefinite simply because it would cover multiple types of status information. As noted in In re Miller, 441 F.2d 689, 169 USPQ 597 (CCPA 1971), the breadth of a claim is not be equated with indefiniteness. Applicants respectfully assert that the recitation is proper and request that the rejection be reconsidered and withdrawn.

Claims 1-14 and 21-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Kristol et al.* (U.S. Patent No. 5,541,927) in view of *Watson et al.* (U.S. Patent No. 6,631,409). Claims 15-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Kristol et al.* in view of *Watson et al.* and *Fujino et al.* (U.S. Patent No.

5,651,006). The above rejections are respectfully traversed based on the remarks that follow.

The present invention is directed to, according to claim 1, from which claims 2-20 depend, a network hub in a communication network comprising a server, the server pushing status information to a client. In addition, the present invention is also directed to, according to claim 21, from which claims 22-30 depend, a communication apparatus having a network information table storing network information from the network information receiver and a network information transmitter selectively push transmitting the network information in the network information table. Also, the present invention is directed to, according to claim 31, from which claims 32-40 depend, a communication apparatus having a network information receiver, operably coupled with a communication network, for receiving network information, a network information table for storing network information from the network information receiver, a network operations detector detecting the networking information and producing operational information of an operational state of the network and a network information transmitter, for transmitting the operational information of an operational state of the network.

In each of the independent claims 1, 21 and 31, a server pushing status information to a client, a network information transmitter selectively push transmitting the network information or transmitting the operational information of an operational state of the network is disclosed. In each, it can be seen that status or operational state information is "pushed" from the hub or central server to the client nodes of the network. As discussed

in greater detail in the specification at page 5, lines 21-29, push technology is defined as being a structure where “a server, or data source, transmits information to a client, or data recipient, *without a specific request for that information from the client.*” (emphasis added).

Kristol et al. was discussed in Applicant’s prior Response and its disclosure need not be repeated. Previously, it was held that *Kristol et al.* disclosed such a function. In the instant Office Action, the Office now acknowledges that *Kristol et al.* fails to disclose a server pushing status information to a client. Because of this deficiency, *Watson et al.* was additionally cited.

Watson et al is directed to a method and apparatus that provides a plurality of communications paths in a communications system. A plurality of elements is connected to the network including a monitor server, wherein the monitor server includes monitoring means for obtaining status information from the plurality of elements. Also connected to the network is a client server, wherein the client server includes communications means for retrieving status information from the monitor server. The Office alleges that the server in *Watson et al* pushes status information to a client. However, Applicants respectfully assert that *Watson et al* fails to disclose or suggest what has been alleged.

In *Watson et al.*, an object push thread process is implemented as discussed in the reference at column 10, line 52 to column 11, line 4. The process awaits the operating system making a notification that the registry has changed. Thereafter, it is determined

whether the changes are applicable to the object class in which the server is located. The server may then provide data to the monitor machine server, where the monitor machine server keeps track of all servers within the network. However, the process does not “push” status information to clients.

A comparison between the instant invention, such as Fig. 6 of the instant invention, and the disclosure of *Watson et al.*, such as Fig. 3 of *Watson et al.*, illustrates that the monitor machine server (302) of *Watson et al.* is more similar to the server (600) than the clients (610). While elements 308 and 310, in Fig. 3 in *Watson et al.*, are indicated as being servers, they communicate only with the MOM server (302). Thus, in *Watson et al.*, when the server provides data to the MOM server, it is not the same as having a server “push” status information to clients; more appropriately, this could be referred to as having the clients provide status information to the central server. Thus, *Watson et al.* fails to teach or suggest “the server pushing status information to a client,” as recited in independent claims 1, 21 and 31.

Based on the above, , Applicants respectfully assert that the rejection of claims 1, 21 and 31 are improper for failing to teach or suggest all of the elements of those claims. Likewise, claims 2-20, 22-30 and 32-40 should be allowed for at least their dependence on the independent claims.

In addition, the Office indicates that *Kristol et al.* teaches that a server can unicast, transmit, broadcast or multicast information, but Applicants respectfully assert that none of that information disclosed in *Kristol et al.* is status or operational state information. In

all instances in *Kristol et al.*, the information packets sent out are data packets and not status information. Thus, *Kristol et al.* fails to teach or suggest the pushing of information through unicast, broadcast or multicast methods. For this additional reason, Applicants respectfully assert that the rejection of claims 2-5 is improper and should be withdrawn.

With respect to the rejection of claim 6, the Office makes reference to column 3, lines 38-42 of *Kristol et al.*, where that section discloses that entities or active elements in each layer may be software or hardware entities, or some combination thereof. However, nothing in that section teaches or suggest that the hub may be devoid of a microprocessor. For this additional reason, Applicants respectfully assert that the rejection of claim 6 is improper and should be withdrawn.

In addition, the Office rejects claims 9 and 10 and indicates that *Kristol et al.* discloses a push transmission field. That section of the Office Action does identify a packet format, but nowhere in that packet format is a push transmission field disclosed. Additionally, the Office does not indicate what portion of the packet format that the Office considers to be equivalent of a push transmission field or would render such a push transmission field to be obvious in view of. For this additional reason, Applicants respectfully assert that the rejection of claim 9 and 10 is improper and should be withdrawn.

Applicants also note that the Office Action alleges that the rejection of claims 31-40 are "rejected for the same reasons set forth to [sic] rejecting claims 21-30 above."

This appears to be clearly improper, given that base claims 31 and 21 recite different elements and the rejection of one such set of claims cannot be made in view of claims that recite different subject matter. Specifically, claim 31 recites, in part “a network operations detector detecting the networking information and producing operational information of an operational state of the network,” where no such element is recited in claim 21. Additionally, *Kristol et al.* fails to teach or suggest such a network operations detector and there is suggest to modify *Kristol et al.* to include such a network operations detector. For this additional reason Applicants respectfully assert that the rejection of claims 31-40 is improper and should be withdrawn.

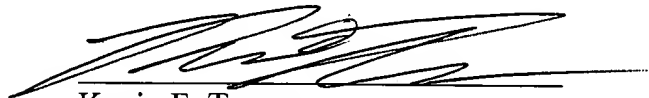
Additionally, with respect to the rejection of claims 15-20, the Office acknowledges the deficiencies of *Kristol et al.* in view of *Watson et al.* and also cites *Fujino et al.* in an effort to cure those deficiencies. However, even if *Fujino et al.* were accepted to teach what the Office has alleged that it teaches, *Fujino et al.* does not teach the elements of claim 1 that are not taught or suggested by *Kristol et al.* in view of *Watson et al.* Since claims 15-20 ultimately depend from claim 1, Applicants respectfully assert that the combination of *Kristol et al.*, *Watson et al.* and *Fujino et al.* cannot teach or suggest all of the elements of claims 15-20.

Applicants respectfully request the allowance of claims 1-40 and respectfully request that the application be allowed to issue. If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at

the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin F. Turner', with a horizontal line drawn underneath it.

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